

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
QUANTUM CORPORATE FUNDING, LTD.,

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD INCORPORATED,  
DAVID R. WARFIELD, NATIONAL CITY  
MORTGAGE INC., and PENN LYON HOMES  
CORPORATION,

Defendants.

-----X

NATIONAL CITY MORTGAGE, INC.,

Third-Party Plaintiff,

-against-

MICHAEL CONRAD a/k/a MICHAEL CONRAD  
BROWN,

Third-Party Defendant.

-----X

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK:**

Plaintiff, Quantum Corporate Funding, Ltd., requests that the Clerk of this Court enter the defaults of defendant Westwood Design/Build Incorporated and of defendant David R. Warfield for their respective failures to plead or otherwise defend in a timely manner as provided for by Rule 55(a) of the Federal Rules of Civil Procedure.

This request is based on the attached Affidavit of Bernard Kobroff, Esq. which shows:

1. That defendant David R. Warfield was served with: (a) the Summons and Complaint herein on January 23, 2008; the Amended Complaint herein on February 1, 2008; and the Corrected Amended Complaint herein on March 3, 2008.

Civil Action

Docket No. 08 CV00539 (LAK)(HBP)

**REQUEST TO ENTER DEFAULTS  
OF WESTWOOD DESIGN/BUILD  
INCORPORATED AND  
DAVID R. WARFIELD  
(Fed. R. Civ. P. 55(a))**

2. That defendant Westwood Design/Build Incorporated was served with: (a) the Summons and Complaint herein on January 22, 2008; the Amended Complaint herein on February 1, 2008; and the Corrected Amended Complaint herein on March 3, 2008.

3. That the Proofs of Service of the aforesaid were filed with this Court on February 1, 2008, February 13, 2008 and March 3, 2008, and establish that service was proper pursuant to Rule 4 of the Federal Rules of Civil Procedure. Copies of the aforesaid Proofs of Service are attached to the Affidavit of Bernard Kobroff.

4. That defendant Westwood Design/Build Incorporated has failed to plead or otherwise respond to the Complaint, the Amended Complaint and/or the Corrected Amended Complaint.

5. That defendant David R. Warfield has failed to plead or otherwise respond to the Complaint, the Amended Complaint and/or the Corrected Amended Complaint.

6. That the applicable time limit for responding to the Complaint, the Amended Complaint and/or the Corrected Amended Complaint by defendants Westwood Design/Build Incorporated and David R. Warfield has expired.

7. That defendant David R. Warfield is not an infant or incompetent person or in the military service.

Dated: New York, New York  
May 14, 2008

GOETZ FITZPATRICK LLP

By: 

Bernard Kobroff (BK 0101)  
Attorneys for Plaintiff  
Quantum Corporate Funding, Ltd.  
One Penn Plaza, Suite 4401  
New York, New York 10119  
(212) 695-8100

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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QUANTUM CORPORATE FUNDING, LTD.,

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD INCORPORATED,  
DAVID R. WARFIELD, NATIONAL CITY  
MORTGAGE INC., and PENN LYON HOMES  
CORPORATION,

Defendants.

-----X

NATIONAL CITY MORTGAGE, INC.,

Third-Party Plaintiff,

-against-

MICHAEL CONRAD a/k/a MICHAEL CONRAD  
BROWN,

Third-Party Defendant.

-----X

State of New York     )  
                              )ss:  
County of New York    )

BERNARD KOBROFF, being duly sworn, deposes and states:

1. I am over 18 years of age, reside in Westchester County, New York, and am fully competent to make this Affidavit having knowledge of the facts stated herein.

2. I am one of the attorneys for the plaintiff, Quantum Corporate Funding, Ltd., in this Action.

3. On January 22, 2008, I delivered true copies of the Summons and Complaint in this action to Tri-State Judicial Services , Freeport, New York.

Civil Action

Docket No. 08 CV00539 (LAK)(HBP)

**AFFIDAVIT IN SUPPORT OF  
REQUEST TO ENTER DEFAULTS  
OF WESTWOOD DESIGN/BUILD  
INCORPORATED AND OF  
DAVID R. WARFIELD  
(Fed. R. Civ. P. 55(a))**

4. On January 23, 2008, J. Matthew Manlich properly served the Summons and Complaint personally on defendant David R. Warfield, under the provisions of Rule 4 of the Federal Rules of Civil Procedure and certified that fact to this court in a Proof of Service dated January 23, 2008, which Proof of Service was duly filed with this Court on February 13, 2008. A copy of this Proof is attached to this Affidavit as Exhibit "A".

5. Thereafter, on January 31, 2008, plaintiff filed its Amended Complaint, and said Amended Complaint was served on defendant David R. Warfield on February 1, 2008, and Proof of Service thereof was duly filed with this Court on February 1, 2008. A copy of this Proof of Service is attached to this Affidavit as Exhibit "B".

6. Thereafter, on February 19, 2008, plaintiff filed its Corrected Amended Complaint, and said Complaint was served on defendant David R. Warfield on March 3, 2008 and Proof of Service thereof was duly filed with this Court on March 3, 2008. A copy of this Proof of Service is attached hereto as Exhibit "C".

7. On January 24, 2008, Andre S. Powell properly served the Summons and Complaint personally on defendant Westwood Design/Build Incorporated under the provisions of Rule 4 of the Federal Rules of Civil Procedure and certified that fact to this Court in a Proof of Service dated January 24, 2008, which Proof of Service was duly filed with this Court on February 13, 2008. A copy of this Proof is attached to this Affidavit as Exhibit "D".

8. Thereafter, on January 31, 2008, plaintiff filed its Amended Complaint, and said Complaint was served on defendant Westwood Design/Build Incorporated on February 1, 2008, and Proof of Service thereof was duly filed with this Court on February 1, 2008. A copy of this Proof of Service is attached to this Affidavit as Exhibit "B".

9. Thereafter, on February 19, 2008, plaintiff filed its Corrected Amended Complaint, and said Complaint was served on defendant Westwood Design/Build Incorporated on March 3, 2008 and Proof of Service thereof was duly filed with this Court on March 3, 2008. A copy of this Proof of Service is attached hereto as Exhibit "C".


10. Defendant Westwood Design/Build Incorporated has failed to appear or serve an Answer or otherwise respond to the Complaint, the Amended Complaint and/or the Corrected Amended Complaint.

11. Defendant David R. Warfield has failed to appear or serve and file an Answer or otherwise respond to the Complaint, the Amended Complaint and/or the Corrected Amended Complaint.

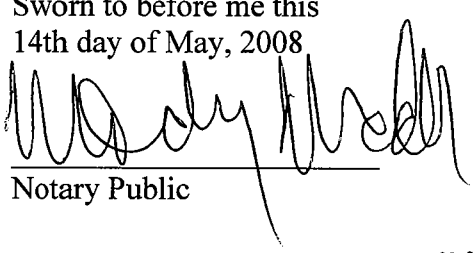
12. Under Rule 12(a) of the Federal Rules of Civil Procedure, the respective time limits for defendants Westwood Design/Build Incorporated and David R. Warfield to respond to the Complaint, the Amended Complaint and/or the Corrected Amended Complaint have now expired, and the time for defendants Westwood Design/Build Incorporated and David R. Warfield have not been extended by any stipulation of the parties or any order of the Court.

13. Defendant David R. Warfield is not an infant or incompetent person within the meaning of the Federal Rules of Civil Procedure, or in the military service within the meaning of the Soldiers' and Sailors' Civil Relief Act. A copy of the Certificate of the Department of Defense Manpower Data Center certifying that David R. Warfield is not in the military service is attached hereto as Exhibit "E".

Signed by me on May 14, 2008, at New York, New York

  
\_\_\_\_\_  
Bernard Kobroff

Sworn to before me this  
14th day of May, 2008

  
\_\_\_\_\_  
Notary Public

**MORDY MANDELL**  
**Notary Public, State of New York**  
**No. 02MA5042487**  
**Qualified in Kings County**  
**Commission Expires June, 13, 2011**

W:\bkobroff\Quantum\Westwood\Affidavit of BK in Support of Req. to Ent. Def..doc

Exhibit A

COUNTY OF  
 UNITED STATES DISTRICT COURT  
 DISTRICT: SOUTHERN DISTRICT OF NEW YORK  
 ATTORNEY(S): GOETZ FITZPATRICK LLP PH: 212-695-8100  
 ADDRESS: ONE PENN PLAZA, 44TH FLOOR NEW YORK NY 10119 File No.:



INDEX #: 08-CV-00539  
 Date Filed: January 16, 2008

QUANTUM CORPORATE FUNDING, LTD

vs

WESTWOOD DESIGN/BUILD INCORPORATED, ET AL

Plaintiff(s)/Petitioner(s)

Defendant(s)/Respondent(s)

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_ SS.: **AFFIDAVIT OF SERVICE**

J. Matthews Manlich, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On January 23, 2008 at 2:00 PM  
 at 715 EAST MAPLE RD, Linthicum Heights, MD 21090, deponent served the within  
Summons in a Civil Action and Complaint, Order To Show Cause & Temporary Restraining Order

on: DAVID R. WARFIELD, Defendant therein named.

#1 INDIVIDUAL ☐ By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

#2 CORPORATION ☐ By delivering thereat a true copy of each to \_\_\_\_\_ personally, deponent knew said corporation/agency to be the corporation described in same as said recipient and knew said individual to be the managing/authorized agent of the corporation, and said person stated that he/she was authorized to accept service on behalf of the corporation.

#3 SUITABLE AGE PERSON ☒ By delivering a true copy of each to Mrs. D. Warfield, wife, a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☒ dwelling house (usual place of abode) within the state.

#4 AFFIXING TO DOOR ☐ By affixing a true copy of each to the door of said premises, which is recipient's: ☐ actual place of business ☐ dwelling house (place of abode) within the state.

Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
 on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
 on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
 on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

Address confirmed by \_\_\_\_\_

#5 MAIL COPY ☐ On \_\_\_\_\_, deponent completed service under the last two sections by depositing a copy of the \_\_\_\_\_ to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of \_\_\_\_\_.

#6 DESCRIPTION ☒ A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

(Use with #1, 2 or 3) Sex: F Color of skin: White Color of hair: Dark Age: 38 Height: 5'5"  
 Weight: 146 Other Features: \_\_\_\_\_

#7 WIT. FEES ☐ the authorized witness fee and / or traveling expenses were paid (tendered) to the recipient.

#8 MIL. SRVC ☒ Your deponent asked the person spoken to whether defendant was in the active military service of the United States; and received a negative reply. Upon information and belief I have; being based on the conversations & observations above narrated, defendant is not in the military service.

#9 OTHER ☐

Sworn to before me on January 23, 2008

Notary Public

Please Print Name Below Signature

J. MATTHEWS MANLICH  
 Invoice-Work Order # 0150250



Exhibit B

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK )

Joy Speights , being duly sworn, deposes and says, deponent is not a party to the action, is over the age of 18 years and resides in Staten Island, New York and on the 1st day of February, 2008 served the within **AMENDED COMPLAINT** upon:

Richard B. Rosenblatt, P.C.  
30 Courthouse Square, Room 302  
Rockville, Maryland 20850

Westwood/Design/Build Incorporated  
12109 Gordon Avenue  
Beltsville, Maryland 20705

National City Mortgage, Inc.  
3232 Newmark Drive  
Miamisburg, Ohio 45342

David R. Warfield  
715 East Maple Road  
Linthicum Heights, Maryland 21090

by depositing a true copy of same in a properly addressed, postpaid envelope in an official depository of the United States Post Office within the State of New York.

  
JOY SPEIGHTS

Sworn to before me on this  
1<sup>st</sup> day of February, 2008

  
BERNARD KOBROFF  
NOTARY PUBLIC, State of New York  
No. 4603478  
Qualified in Westchester County  
Commission Expires May 31, 2010

Notary Public

**Exhibit C**

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK )

Ahalia Mangar , being duly sworn, deposes and says, deponent is not a party to the action, is over the age of 18 years and resides in Queens, New York and on the 3<sup>rd</sup> day of March 2008, served the within **CORRECTED AMENDED COMPLAINT** upon:

**Marisa Steel**  
**McCarter and English, LLP**  
**Four Gateway Center**  
**100 Mulberry Street**  
**Newark, New Jersey 07102**

**Westwood/Design/Build Incorporated**  
**12109 Gordon Avenue**  
**Beltsville, Maryland 20705**

**Penn Lyon Homes Corporation**  
**195 Airport Road**  
**Selingrove, Pennsylvania 17870**

**David R. Warfield**  
**715 East Maple Road**  
**Linthicum, Maryland 21090**

**Michael Conrad**  
**12109 Gordon Avenue**  
**Beltsville, Maryland 20705**

by depositing a true copy of same in a properly addressed, postpaid envelope in an official depository of the United States Post Office within the State of New York.

  
AHALIA MANGAR

Sworn to before me on this  
3<sup>rd</sup> day of March, 2008

  
Notary Public

SEEN AND  
NOTARIES PUBLIC, STATE OF NEW YORK  
Michael Conrad  
Qualified in Westchester County  
Commission Expires May 31, 2010

Exhibit D

## COUNTY OF

## UNITED STATES DISTRICT COURT

DISTRICT: SOUTHERN DISTRICT OF NEW YORK

ATTORNEY(S): GOETZ FITZPATRICK LLP PH: 212-695-8100

ADDRESS: ONE PENN PLAZA, 44TH FLOOR NEW YORK NY 10119 File No.:



INDEX #: 08-CV-00539

Date Filed: January 16, 2008

QUANTUM CORPORATE FUNDING, LTD

vs

Plaintiff(s)/Petitioner(s)

WESTWOOD DESIGN/BUILD INCORPORATED, ET AL

Defendant(s)/Respondent(s)

STATE OF Maryland , COUNTY OF Baltimore SS.: **AFFIDAVIT OF SERVICE**  
Andre S. Powell , being duly sworn deposes and says:Deponent is not a party herein, is over 18 years of age. On January 24, 2008 at 10:49 AM ,  
at 12109 GORDON AVENUE, Beltsville, MD 20705 , deponent served the within  
Summons in a Civil Action and Complaint, Order To Show Cause & Temporary Restraining Orderon: WESTWOOD DESIGN/BUILD INCORPORATED , Defendant therein named.#1 INDIVIDUAL ☐ By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.#2 CORPORATION ☐ By delivering thereat a true copy of each to \_\_\_\_\_ personally, deponent knew said corporation/agency to be the corporation described in same as said recipient and knew said individual to be the managing/authorized agent of the corporation, and said person stated that he/she was authorized to accept service on behalf of the corporation.#3 SUITABLE AGE PERSON ☐ By delivering a true copy of each to \_\_\_\_\_ a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☐ dwelling house (usual place of abode) within the state.#4 AFFIXING TO DOOR ☒ By affixing a true copy of each to the door of said premises, which is recipient's: ☐ actual place of business ☒ dwelling house (place of abode) within the state.Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat on the 24 day of January at 10:49 AM  
on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

Address confirmed by \_\_\_\_\_

#5 MAIL COPY ☐ On \_\_\_\_\_, deponent completed service under the last two sections by depositing a copy of the \_\_\_\_\_ to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of \_\_\_\_\_.#6 DESCRIPTION ☐ A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:(Use with #1, 2 or 3) Sex: \_\_\_\_\_ Color of skin: \_\_\_\_\_ Color of hair: \_\_\_\_\_ Age: \_\_\_\_\_ Height: \_\_\_\_\_  
Weight: \_\_\_\_\_ Other Features: \_\_\_\_\_#7 WIT. FEES ☐ the authorized witness fee and / or traveling expenses were paid (tendered) to the recipient.#8 MIL. SRVC ☐ Your deponent asked the person spoken to whether defendant was in the active military service of the United States; and received a negative reply. Upon information and belief I have; being based on the conversations & observations above narrated, defendant is not in the military service.#9 OTHER ☐Sworn to before me on January 24, 2008Betty A. Brown  
Notary Public Exp: 12/19/2011Please Print Name Below Signature  
ANDRE S. POWELL  
Invoice-Work Order # 0150251

Exhibit E

Department of Defense Manpower Data Center

MAY-12-2008 15:14:54



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
WARFIELD	david richard	Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USCS Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenseink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person ( e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

WARNING: This certificate was provided based on a name and Social Security number (SSN) provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:XTACUKALAR